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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,255	01/16/2004	Jean-Francois De Bast	21029-00270-US	5693

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EXAMINER

BOES, TERENCE

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/758,255	Applicant(s) DE BAST ET AL.	
	Examiner Terence Boes	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/14/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: the term "sad" in line 2 appears to be a typo of the term –said-. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the term "about" in claim 2 is a relative term which renders the claim indefinite. The term "about" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The quantity 40° is rendered indefinite by the term "about". It is unclear what range "about" encompasses.

The recitation "wherein the angular range for clicking in is 25°" in claim 3 renders the claim indefinite. How can a range consist of only one number? No range is given in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lancelot FR2809701.

Regarding claim 1, Lancelot discloses a similar device comprising:

- A first rear hoop (12) comprising a first rear attachment bar (12a) situated behind the pedal spindle (A) and substantially parallel to the pedal spindle, the first rear hoop being articulated about a first hoop spindle (14) mounted in bearings (C2a) of the pedal body (C2a). Examiners note: pedal body C2a has holes for receiving spindle (14). These holes contain bearing surfaces.
- A first front hoop (11) comprising a first front attachment bar (11a) situated in front of the pedal spindle and substantially parallel to the spindle, the first front hoop being articulated about a second hoop spindle (14)
- Elastic means (R1,R2) urging the first rear hoop (12) and the front hoop (11) toward a rest position in which a mid-plane of the first front hoop and a mid-plane of the first rear hoop are substantially

orthogonal to a mid-plane of the pedal (see figure 12, mid-planes appear to be substantially orthogonal.) The examiner notes: a mid plane of a hoop is considered to be **any** mid-plane with a point in a hoop.

- the front and rear attachment bars (11a,12a) are situated above the pedal body (C2) and are able to be moved apart
- the second hoop spindle (14) is situated below a mid-plane of the pedal passing through a geometric axis (A) of the pedal on an opposite side to the front attachment bar (see fig 10).
- A front upper part of the pedal body is limited by a front face inclined downward toward its front (see fig 10, front face is upper surface of part C2a),

Examiners note the recitation “allowing a greater angular range for clicking in” is considered to be an intended use. (see MPEP 2114)

Regarding claim 2, Lancelot discloses a similar device comprising:

- The cycle pedal as claimed in claim 1 wherein the inclination of the front face (10) relative to the mid-plane of the pedal is about 40° (see fig 10)

Regarding the recitation “said front face constituting a zone on which blocks of the sole may slide during interlocking” in clm 2, a claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art

apparatus.” Therefore, clm 2 is rejected since all claim limitations have been met as disclosed above (see MPEP 2114).

Regarding claim 3, as best understood, Lancelot discloses a similar device comprising:

- Wherein an angle for clicking in is 25°. Examiner notes that the cleat actually travels through numerous angles.

Regarding claim 4, Lancelot discloses a similar device comprising:

- The cycle pedal as claimed in claim 1 wherein material is retained around bearings (C2) through which the second hoop spindle passes.

Regarding claim 5,

- A second rear hoop (lower instance of 12 in figure 10) integral with the first front hoop so as to form a rectangular frame (see figs 1 and 9) (examiner notes that “integral” is interpreted as functioning together).
- Said second rear hoop comprising a second rear attachment bar (lower instance of 12a in figure 10)
- A second front hoop (lower instance of 11 in figure 10) integral with the first rear hoop so as to form a rectangular frame (see figs 1 and 9)
- Said second front hoop comprising a second front attachment bar (lower instance of 11a in figure 10)

- Wherein said first front hoop and said first rear hoop are located at a top face of the pedal (see fig 10)
- Wherein the second front hoop and second rear hoop are located at a bottom face of the pedal (see fig 10)

Regarding claim 6, Lancelot discloses a similar device comprising:

- The cycle pedal as claimed in claim 1, comprising, to the rear of the body, a cap (17) provided
- wherein the rear hoop bears against the cap in the rest position (see fig 12).

Regarding the recitation "...for guiding the sole of a shoe fitted with a tunnel..." in claim 6, a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus." Therefore, clm 6 is rejected since all claim limitations have been met as disclosed above (see MPEP 2114).

Regarding claim 7, Lancelot discloses a similar device comprising:

- The cycle pedal as claimed in claim 1, wherein said first front hoop (11) comprises at least one lateral stop (see fig 3, 11b)

Regarding the recitation "...limiting the freedom of transverse displacement of a cleat fixed under a shoe..." in claim 7, a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus." Therefore, clm 7 is rejected since all claim limitations have been met as disclosed above (see MPEP 2114)..

The recitation "...to allow the passage and attachment of a cleat fixed under a sole of a cycle shoe in a housing of the sole, at least one edge of which is limited by a stud whose thickness is greater than a thickness of the cleat..." in claim 1 has not been given patentable weight (see MPEP 2115).

Allowable Subject Matter

4. Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 11 and 12 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art does not teach nor render obvious the claimed combination wherein a safety cycle pedal having at least one lug projecting to an inside of the first front hoop from a leg which is substantially orthogonal to the first front attachment bar.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

6. Applicant's arguments filed 6/14/06 have been fully considered but they are not persuasive.

Applicant argues:

- A.** The recitation "...about 40 degrees..." is not indefinite as one of ordinary skill in the art would understand that "about 40 degrees" encompasses a range of angles near 40 degrees.
- a.** In response the examiner notes that one of ordinary skill in the art would not know to what range of angles the applicant is referring. Is +/- 5 degrees a comfortable range? Is +/- 40 degrees a comfortable range?
- B.** Lancelot does not disclose, "wherein the second hoop spindle is "situated below a mid-plane of the pedal".
- a.** In response, the examiner notes that "a mid-plane of the pedal is considered to be a mid-plane passing through the pedal spindle (A) axis, just above the front spindle hoop (14), and just below the rear spindle hoop (14) (see figure 10).
- C.** Lancelot does not disclose, "a front upper part of the pedal body is limited by a front face inclined downward toward its front, allowing a greater angular range for clicking in."
- a.** In response, the examiner notes the recitation "...allowing a greater angular range for clicking in..." is considered to be an intended use of the device. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus." Therefore, claim 1 is rejected

since all claim limitations have been met as disclosed above
(see MPEP 2114).

D. Claim 5 Prima Fascia case has not been established

- a. Applicant's arguments with respect to claim 5 have been considered but are moot in view of the new ground(s) of rejection.

E. Coils of Byrne projecting inside the hoop are not a true projection from a leg.

- a. In response, applicant has successfully amended the claim to overcome prior rejection rendering the argument moot.

Conclusion

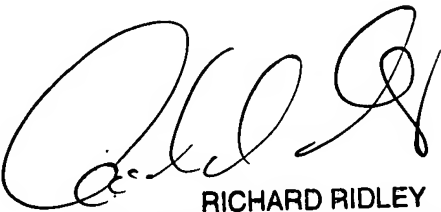
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terence Boes whose telephone number is (571) 272-4898. The examiner can normally be reached on Monday - Friday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TB
6/26/06



RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER